

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FRANCES MORRIS, ELIZABETH A. §
MORRIS CHILD’S TRUST, MICHAEL §
K. MORRIS CHILD’S TRUST, DAVID §
K. MORRIS CHILD’S TRUST, and §
MORRIS FAMILY TRUST §

Plaintiffs, §

v. §

ACER AMERICA CORPORATION, §
ASUS COMPUTER INTERNATIONAL §
CORPORATION, AVERATEC, INC., §
DELL, INC., EVEREX SYSTEMS, INC., §
FUJITSU COMPUTER SYSTEMS §
CORPORATION, GATEWAY §
COMPANIES, INC., HEWLETT §
PACKARD COMPANY, LENOVO §
(UNITED STATES) INC., LG §
ELECTRONICS U.S.A., INC., OQO, §
INC., PANASONIC CORPORATION §
OF NORTH AMERICA, SAMSUNG §
ELECTRONICS AMERICA, INC., §
SONY ELECTRONICS, INC., §
SYSTEMAX, INC., TOSHIBA §
AMERICA INC., and VELOCITY §
MICRO, INC. §

Defendants. §

Case No: 2:08-cv-127

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Frances Morris, Elizabeth A. Morris Child’s Trust, Michael Morris K. Child’s Trust , David K. Morris Child’s Trust, and Morris Family Trust (collectively “Plaintiffs”) file this Original Complaint against Defendants, Acer America Corporation, Asus Computer International Corporation, Averatec, Inc., Dell, Inc., Everex Systems, Inc., Fujitsu Computer Systems

Corporation, Hewlett Packard Company, Lenovo (United States), Inc., LG Electronics U.S.A., Inc., OOO, Inc., Panasonic Corporation of North America, Samsung Electronics America, Inc., Sony Electronics, Inc., Systemax, Inc., Toshiba America, Inc., and Velocity Micro, Inc. (collectively “Defendants”) and allege as follows:

THE PARTIES

1. Plaintiff Frances Morris is an individual residing in Dallas Texas. The Elizabeth Morris A. Child’s Trust, the Michael K. Morris Child’s Trust, the David K. Morris Child’s Trust, and the Morris Family Trust are trusts originating under the laws of the State of Texas.

2. Acer America Corporation (“Acer”), on information and belief, is a corporation organized under the laws of the State of California. Acer, on information and belief, is doing business in Texas, including business within this judicial district. Acer may be served with process by serving its registered agent, CT Corporation System, located at 350 N. St. Paul Street, Dallas Texas 75201.

3. Asus Computer International Corporation (“Asus”), on information and belief, is a corporation organized under the laws of the State of California. Asus, on information and belief, is doing business in Texas, including business within this judicial district. Asus may be served with process by serving its registered agent, Celeste D. Rincon, located at 1921 Cedar Bend Dr. Ste. B-100, Austin, Texas 78758.

4. Averatec, Inc. (“Averatec”), on information and belief, is a corporation organized under the laws of the State of California. Averatec, on information and belief, is doing business in Texas, including business within this judicial district. Averatec may be served with process by

serving its registered agent, Tae Hyun Cho, located at 1231 E Dyer Rd., Ste. 150, Santa Ana, California 92705.

5. Dell, Inc. (“Dell”), on information and belief, is a corporation organized under the laws of the State of Delaware. Dell, on information and belief, is doing business in Texas, including business within this judicial district. Dell may be served with process by serving its registered agent, Corporation Service Company, located at 701 Brazos Street, Suite 1050, Austin, Texas 78701.

6. Everex Systems Inc. (“Everex”), on information and belief, is a corporation organized under the laws of the State of Delaware. Everex, on information and belief, is doing business in Texas, including business within this judicial district. Everex may be served with process by serving its registered agent, Prentice Hall Corporation, located at 701 Brazos Street, Suite 1050 Austin, Texas 78701.

7. Fujitsu Computer Systems Corporation (“Fujitsu”), on information and belief, is a corporation organized under the laws of the State of California. Fujitsu, on information and belief, is doing business in Texas, including business within this judicial district. Fujitsu may be served with process by serving its registered agent, Corporation Service Company, located at 701 Brazos Street, Suite 1050, Austin, Texas 78701.

8. Gateway Companies Inc., (“Gateway”), on information and belief, is a corporation organized under the laws of the State of Delaware. Gateway, on information and belief, is doing business in Texas, including business within this judicial district. Gateway may be served with process by serving its registered agent, CT Corporation System, located at 350 N. St. Paul Dallas St., Texas 75201.

9. Hewlett-Packard Company (“HP”), on information and belief, is a corporation organized under the laws of the State of Delaware. HP, on information and belief, is doing business in Texas, including business within this judicial district. HP may be served with process by serving its registered agent, CT Corporation System, located at 350 North St. Paul Street, Dallas, Texas 75201.

10. Lenovo (United States) Inc. (“Lenovo”), on information and belief, is a corporation organized under the laws of the State of Delaware. Lenovo, on information and belief, is doing business in Texas, including business within this judicial district. Lenovo may be served with process by serving its registered agent, CT Corporation System, located at 350 North St. Paul Street, Dallas, TX 75201.

11. LG Electronics U.S.A., Inc (“LG”), on information and belief, is a corporation organized under the laws of the State of Delaware. LG, on information and belief, is doing business in Texas, including business within this judicial district. LG may be served with process by serving its registered agent, United States Corporation CO, located at 701 Brazos Street, Suite 1050, Austin, Texas 78701.

12. OQO, Inc. (“OQO”), on information and belief, is a corporation organized under the laws of the State of Delaware. OQO, on information and belief, is doing business in Texas, including business within this judicial district. OQO may be served with process by serving its registered agent, Corporation Service Company which will do business in California as CSC-Lawyers Incorporating Service, located at 2730 Gateway Oaks Dr., Ste., 100 Sacramento, California 95833.

13. Panasonic Corporation of North America (“Panasonic”), on information and belief, is a corporation organized under the laws of the State of Delaware. Panasonic, on information and belief, is doing business in Texas, including business within this judicial district. Panasonic may be served with process by serving its registered agent, CT Corporation System, located at 350 N. St., Paul Street Dallas, Texas 75201.

14. Samsung Electronics America, Inc. (“Samsung”), on information and belief, is a corporation organized under the laws of the State of New York. Samsung, on information and belief, is doing business in Texas, including business within this judicial district. Samsung may be served with process by serving its registered agent, CT Corporation System, located at 350 N. ST. Paul Street Dallas, Texas 75201.

15. Sony Electronics, Inc. (“Sony”), on information and belief, is a corporation organized under the laws of the State of Delaware. Sony, on information and belief, is doing business in Texas, including business within this judicial district. Sony may be served with process by serving its registered agent, Corporation Service Company, located at 701 Brazos Street, Suite 1050, Austin, Texas 78701.

16. Systemax, Inc. (“Systemax”), on information and belief, is a corporation organized under the laws of the State of Delaware. Systemax, on information and belief, is doing business in Texas, including business within this judicial district. Systemax may be served with process by serving its registered agent, Corporation Service Company, located at 2711 Centerville road Suite 400, Wilmington, Delaware 19808.

17. Toshiba America Inc. (“Toshiba”), on information and belief, is a corporation organized under the laws of the State of Delaware. Toshiba, on information and belief, is doing

business in Texas, including business within this judicial district. Toshiba may be served with process by serving its registered agent, The Corporation Trust Company, Corporation Trust Center 1209 Orange Street, Wilmington, Delaware 19801.

18. Velocity Micro, Inc. (“Velocity Micro”), on information and belief, is a corporation organized under the laws of the State of Virginia. Velocity Micro, on information and belief, is doing business in Texas, including business within this judicial district. Velocity Micro may be served with process by serving its registered agent, Thomas A. Grant, Troutman Sanders L.L.P., located at 1001 Haxall A. Point, 15th FL., Post Office Box 1122 Richmond, Virginia 23218-1122.

JURISDICTION & VENUE

19. This is an action for infringement of a United States patent. Accordingly, this action arises under the patent laws of the United States of America, 35 U.S.C. § 1 *et seq.*, and jurisdiction is properly based on 35 U.S.C. § 271 and 28 U.S.C. § 1338(a).

20. Venue is proper in this district under 28 U.S.C. §§ 1391(b-c) and 1400(b). Upon information and belief, each Defendant named herein transacts or has transacted business in this judicial district, or committed and/or induced acts of patent infringement in this district.

CLAIM FOR PATENT INFRINGEMENT

21. On January 1, 2008, United States Patent No. RE39,989 (“the ‘989 Patent”) entitled “Method and Apparatus For Transmission of Analog and Digital” was duly and legally reissued. A true and correct copy of the ‘989 Patent is attached as Exhibit A.

22. The ‘989 Patent is a reissue of United States Patent No. 6,230,010 (“the ‘010 patent”) entitled “Method and Apparatus For Transmission of Analog and Digital” that was duly and legally issued on December 25, 2001. A true and correct copy of the ‘010 patent is attached as Exhibit B.

23. The reissued claims of the '989 Patent are not identical to the claims of the '010 patent.

24. Pursuant to 35 U.S.C. § 282, the '989 Patent is presumed valid.

25. Plaintiffs collectively own the entire right, title and interest to the '989 Patent.

26. Acer, on information and belief, manufactures, uses, and sells desktop and laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Acer's desktops, product models: Power TM 1000, Aspire ® L310, and Acer's notebooks, product models: Aspire ® 9810, 9300, 5920, 5630, 5100, 5050, 3690, 3100, 3050, TravelMate 8210, 6291, 5710, 4230, 4200, 2480, 3270, and Ferrari 5000, 1000. By manufacturing, using and/or selling these products, Acer has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

27. Asus, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Asus' notebooks, product models: R1E, R1F, R2H, R2Hv, U1E, U6S, W5Fe, W7S, A8Se, F3E, F3Se, F5V, F8P, G1S, M51Sn, M51Sr, A7S, G2K, G2S, A8Sc, F3E, F3Ka, F3Sa, F3Sc, F3Sv, F5R, F5VL, F9Dc, F9J and F9s. By manufacturing, using and/or selling these products, Asus has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 reissue patent, either literally or under the doctrine of equivalents.

28. Averatec, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 reissue patent, including but not limited to,

Averatec's notebooks, product models: 1100, 1500, 2200, 2300, 2371, 2100, 3200, 3300, 3700, 4200, 7100, and AV7170-EC1. By manufacturing, using and/or selling these products, Averatec has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

29. Dell, on information and belief, manufactures, uses, and sells desktop and laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Dell's series of Inspiron desktops, product models: 530, 531, Inspiron slim desktops, product models: 530, 531, Inspiron notebooks, product models: 1420, 1501, 1520/1521, 1720/1721, XPS M1210 notebook and XPS M1330 notebook. By manufacturing, using and/or selling these products, Dell has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

30. Everex, on information and belief, manufactures, uses, and sells notebook computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Everex's StepNote notebooks, product models: SA2050T, SA2052T, SA2053T, KR3200W, PC-LM7WE, PC-LM7WZ, NC1500, NC1501, NC1502, NC1503, NC1510, NM3500W, NM3900W, VA2000T, 2001T, VA4100M, VA4101M, VA4103M, VA4300M and XT5000T. Everex has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 reissue patent, either literally or under the doctrine of equivalents.

31. Fujitsu, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Fujitsu's notebooks, product models: A3130, A6025, A6030, C1410, E8310, E8410, N6460, B6220, P1610,

P7230, S2210, 7110, ST5100, T4220. By manufacturing, using and/or selling these products, Fujitsu has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

32. Gateway, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Gateway's notebooks, product models: Gateway ® M Series-S, M Series-X, M Series-XL, P Series, C Series, One ZX190 and One GZ7108. By manufacturing, using and/or selling these products, Gateway has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

33. Hewlett Packard, on information and belief, manufactures, uses, and sells desktop and laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Hewlett Packard's series of Pavilion desktops, product models: a6100y, a6105y, a6110e, a6150e, a6150y, d4990y, Media Center m8010y series, Media center m8100e series, Slimline s3100e series, Slimline s3100y series, Pavilion notebooks, product models: dv2000t, dv2500t, dv6000t, dv6000z, dv6500t, dv6500t special edition, dv9000z, dv9500t, tx1000z, and Compaq Presario notebooks, product models: C500T, V6000T, V6000Z. By manufacturing, using and/or selling these products, Hewlett Packard has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claim 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

34. Lenovo, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claim 82 of the '989 reissue patent, including but not limited to Lenovo's

notebooks, product models: 3000 Family C, N and V series, and ThinkPad R, T, and X series. By manufacturing, using and/or selling these products, Lenovo has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claim 82 of the '989 Patent, either literally or under the doctrine of equivalents.

35. LG, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, LG's LG-500 Dual Express Series. By manufacturing, using and/or selling these products, LG has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claim 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

36. OQO, on information and belief, manufactures, uses, and sells portable computers that infringe at least claim 82 of the '989 Patent, including but not limited to OQO's, model 2. By manufacturing, using and/or selling these products, OQO has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claim 82 of the '989 Patent, either literally or under the doctrine of equivalents.

37. Panasonic, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Panasonic's Toughbook notebooks, product models: Y7, W7, T7, Y5, W5, T5, 52, 51, 74, 19, 30 and Toughbook Wireless Display notebook. By manufacturing, using and/or selling these products, Panasonic has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 reissue patent, either literally or under the doctrine of equivalents.

38. Samsung, on information and belief, manufactures, uses, and sells portable computers that infringe at least claim 82 of the '989 Patent, including but not limited to Samsung's series of Ultra Mobile PCs, product models: PC-Q1, PC-Q1B, PC-Q1P, PC-Q1PSSD, PC-Q1U-CMXP, PC-Q1U-EL, PC-Q1U-ELXP, PC-Q1U-SSDXP, PC-Q1U-V, PC-Q1U-XP and PC-Q1UP-XP. By manufacturing, using and/or selling these products, Samsung has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claim 82 of the '989 Patent, either literally or under the doctrine of equivalents.

39. Sony, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Sony's VAIO® notebooks, product models: VGN-AR520E, VGN-AR590, VGN-C290, VGN-C250N/B, VGN-CR150E/B, VGN-CR190E/L, VGN-CR190E/P, VGN-CR190E/R, VGC-LS21N, VGC-LS30E, VGC-LS37E, VGN-N320E/B, VGN-N320E/W, VGN-N350E/T, VGN-N350E/B, VGN-SZ360P/C, VGN-SZ370P/C, VGN-330P/B, VGN-430N/B, VGX-TP1, VGX-XL3, VGN-TXN25N/B, VGN-TXN25N/W, VGN-TXN29N/L and VGN-UX390N. By manufacturing, using and/or selling these products, Sony has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 82 of the '989 Patent, either literally or under the doctrine of equivalents.

40. Systemax, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Systemax's notebooks, product models: Medallion XVII-17", Medallion XV-15.4", Pursuit 4250-15.4", Pursuit 4165-15.4", and Assault Ruggedized-14". By manufacturing, using and/or selling these products, Systemax has infringed and continues to infringe, contribute to the infringement of, or induce the

infringement of at least claims 67, 77 and 82 of the '989 reissue patent, either literally or under the doctrine of equivalents.

41. Toshiba, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Toshiba's Portege laptops, product models: M400-S4034, M400-EZ5031, M400-S5032, M400-ST4001, M400-ST4035, R400-S4831, R400-S4933, R400-S4834, R400-S4835, R500-S5002, R500-S5001X, Satellite laptops, product models: M205-S3217, M305-S5127, M305-S5107, M200-ST2002, M300-ST3091, M200-ST2001, A215-S4767, A215-S4757, P100-ST9752, P100-ST9762, P100-ST9772, X205-S9359, X205-S9349, A135-S4498, A205-S4638, A205-S4618, A200-ST2041, A130-OLJ01Q, P205-S6337, P205-S6307, P205-S6347, A205-S4797, A135-S448, A130-ST1313, A130-OLGO1Q, A130-OML02E, P200-ST2071, Qosimo laptops, product models: F45-AV410, F45-AV412, and Tecra laptops, product models: A8-S8513, A8-EZ8511, A7-ST7712, A9-ST9001, A9-S9013, A8-EZ8512X, M8-ST3093, A8-EZ8512, A8-EZ8511X, M9-S5514, M9ST511. By manufacturing, using and/or selling these products, Toshiba has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 89 of the '989 Patent, either literally or under the doctrine of equivalents.

42. Velocity Micro, on information and belief, manufactures, uses, and sells laptop computers that infringe at least claims 67, 77 and 82 of the '989 Patent, including but not limited to, Velocity Micro's NoteMagixTM notebooks, product models: Raptor MD9, M57 Ultra and C90 Ultra. By manufacturing, using and/or selling these products, Velocity Micro has infringed and continues to infringe, contribute to the infringement of, or induce the infringement of at least claims 67, 77 and 89 of the '989 Patent, either literally or under the doctrine of equivalents.

DEMAND FOR JURY TRIAL

43. Plaintiffs hereby demand a jury trial on all claims and issues.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray for entry of judgment:

- A. that Defendants have infringed one or more claims of the '989 reissue patent;
- B. that Defendants account for and pay to Plaintiffs all damages caused by the infringement of the '989 reissue patent, which by statute can be no less than a reasonable royalty;
- C. that Plaintiffs be granted pre-judgment and post-judgment interest on the damages caused to them by reason of Defendants infringement of the '989 Patent;
- D. that Plaintiffs be granted its attorneys' fees in this action;
- E. that costs be awarded to Plaintiffs;
- F. that Plaintiffs be granted such other and further relief as the Court may deem just and proper under the current circumstances.

Respectfully submitted,

Date: March 24, 2008

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